ment in the grantor's land, but a corporeal estate in the walls containing the coal and the space occupied by it after its removal, which he can use for any purpose. *Lillibridge* v. *Lackawanna Coal Co.*, 143 Pa. St. 293, 22 Atl. 1035; *Schobert* v. *Pittsburg Coal Min. Co.*, 254 Ill. 474, 98 N. E. 945. *Proud* v. *Bates*, 34 L. J. (Ch.) 406. See 3 LINDLEY, MINES, 3 ed., § 813a. But see *Ramsay* v. *Blair*, 1 A. C. 701. Obviously this property in the walls and space does not continue forever. See *Webber* v. *Vogel*, 189 Pa. St. 156, 42 Atl. 4. Ordinarily a purchaser of realty to be severed from the soil is not considered as owner of the space occupied by that realty after its removal. Nor does a corporeal estate in the containing walls seem either a necessary or a reasonable incident to the purchase of coal. It seems, therefore, that the court in the present case rightly repudiated the doctrine of these cases, and adopted a rule more in conformity with legal principles.

NEW TRIAL — SUCCESSIVE VERDICTS — SETTING ASIDE SECOND VERDICT FOR THE SAME PARTY AS AGAINST THE WEIGHT OF EVIDENCE. — A verdict for the plaintiff was set aside as against the weight of evidence and a new trial granted. At the second trial a verdict was again rendered for the plaintiff and the defendant again moved for a new trial on the same ground. *Held*, that the motion be denied. *Gutman* v. *Weisbarth*, 185 N. Y. Supp. 261.

It is well settled that when a verdict is manifestly against the weight of evidence, it will be set aside and a new trial granted. *Wood* v. *Gunston*, Style, 466; *Jones* v. *Spencer*, 77 L. T. R. 536; *Carney* v. *Stringfellow*, 73 Fla. 700, 74 So. 866. See THAYER, PRELIM. TREAT. 208. To justify a new trial it is not sufficient that the court merely disagree with the verdict, it being necessary for the verdict to be so much against the weight of evidence as to be unreasonable. *Klock Produce Co.* v. *Diamond Ice & Storage Co.*, 98 Wash. 676, 168 Pac. 476. In the absence of statute there is apparently no limit to the number of times successive verdicts may be set aside as being against the weight of evidence. *Gnecco* v. *Pedersen*, 151 N. Y. Supp. 105; *Barrett* v. *Lewiston, etc. R. R.*, 113 Me. 562, 92 Atl. 934; *Gross Coal Co.* v. *Milwaukee*, 170 Wis. 467, 175 N. W. 793. But the fact that two or more juries agree on a verdict is naturally strong evidence that the verdict is reasonable. For this reason, and in order to prevent litigation from being unduly prolonged, courts are reluctant to consider a second verdict for the same party as sufficiently against the weight of evidence to justify another submission to a jury. See *Miller* v. *Central of Ga. R. R.*, 16 Ga. App. 855, 87 S. E. 303; *Ilsley* v. *Kelley*, 117 Me. 572, 104 Atl. 631. And many states have provided by statute that a party can have but one new trial on the ground that the verdict is against the weight of evidence. See *Van Loon* v. *St. Joseph R. R. & Power Co.* 271 Mo. 209, 195 S. W. 737.

PARDON — NECESSITY OF DELIVERY — EFFECT OF HONEST MISREPRESENTATION. — The warden of the prison in which the petitioner was confined notified the governor through mistake that the petitioner's term would expire on November 25, 1920. In fact the term expires in April, 1921. According to his custom of pardoning worthy convicts a month before the expiration of their sentences, the governor in September, 1920, mailed to the warden a pardon for the petitioner, "to take effect on the 25th day of October, 1920." The governor, hearing of his mistake, revoked the pardon before October 25. The petitioner applies for a writ of *habeas corpus*. *Held*, that the writ be denied. *Ex parte Ray*, 193 Pac. 635 (Okla.).

A pardon is a deed, and delivery is requisite to its operation. See *United States* v. *Wilson*, 7 Pet. (U. S.) 150, 160. When possession is relinquished, whether or not there is a delivery depends on the grantor's intent. So in the principal case there may have been a present constructive delivery to the

petitioner, to be operative at once, but to take effect in enjoyment only on October 25. See *Ex parte Reno*, 66 Mo. 266. Or there may have been a present delivery in escrow to the warden. In either situation, the pardon, having once been delivered, would be irrevocable. *Ex parte Powell*, 73 Ala. 517; *Ex parte Reno, supra*. But there is a third possibility, that the pardon was sent to the warden as the governor's agent to hold it and deliver it on October 25. See *Lange* v. *Cullinan*, 205 Ill. 365, 68 N. E. 934. This is a possible view of the facts, and supports the court's decision. Assuming a valid delivery, the question remains whether the pardon would be void for mistake. Fraud, even that of a third party, invalidates a pardon. *Commonwealth* v. *Halloway*, 44 Pa. St. 210; *State* v. *Leak*, 5 Ind. 359; *contra*, *Knapp* v. *Thomas*, 39 Ohio St. 377. See 1 BISHOP, CRIMINAL LAW, 8 ed., §§ 905, 906. An English statute seems also to make pardons issued because of honest misrepresentation and mistake void. See 27 EDW. 3, st. 1, c. 2. See 4 BLACKSTONE, COMMENTARIES, 400. Whether that statute is part of the common law in this country is doubtful. See *Commonwealth* v. *Halloway, supra*, 219; *Knapp* v. *Thomas, supra*, 385. But some American cases show a tendency to treat mistake as vitiating, even in the absence of statute. See *State* v. *McIntire*, 1 Jones (N. C.), 1. But see *Ex parte Rice*, 72 Tex. Cr. R. 587, 162 S. W. 891. Undoubtedly fraud may be inferred from the fact of misinformation, if no other facts appear. *Rosson* v. *State*, 23 Tex. App. 287, 4 S. W. 897. However, it seems unlikely that American courts would go so far as to hold a pardon invalid because of mistake caused by the honest misrepresentation of a person totally unconnected in interest with the prisoner.

PAROL EVIDENCE RULE — CONSTRUCTION OF DOCUMENTS — SUPPLEMENTING THE MINUTES OF A CITY COUNCIL BY PAROL. — Plaintiff sues the defendant city for injuries sustained while attending a horse show on the street. The minutes of the council showed an application for permission to use a street for a horse show, but showed no action by the council. Parol evidence of such action was admitted by the trial court. *Held*, that this was error. *City of Mt. Vernon* v. *Alldridge*, 128 N. E. 934 (Ind.).

In proving the proceedings of public bodies, trustworthiness and certainty are best secured by the exclusion of all parol evidence and reliance solely upon the record. And when a record is required by statute, many courts exclude all parol evidence contradicting or extending it. *Dunn* v. *Cadiz*, 140 Ky. 217, 130 S. W. 1089; *Belleville* v. *Miller*, 257 Ill. 244, 100 N. E. 946. Nor is parol evidence admissible to vary the plain and clear language of the record. *Marshall* v. *Midland Valley R. Co.*, 96 Kan. 470, 152 Pac. 634; *Bailey* v. *Des Moines*, 158 Ia. 747, 138 N. W. 853. But parol evidence is admissible to explain ambiguous language in the record, in the absence of a statute making the record final. *Watts* v. *Levee District*, 164 Mo. App. 263, 145 S. W. 129; *Beatle* v. *Roberts*, 156 Ia. 575, 137 N. W. 1006. And liberal courts admit parol evidence to supplement the minutes of public bodies. *Gilmer* v. *School District*, 41 Okla. 12, 136 Pac. 1086; *Horning* v. *Canby*, 188 Pac. (Ore.) 700. *Contra*, *Kidson* v. *Bangor*, 99 Me. 139, 58 Atl. 900. Since every addition a litigant would urge is substantially a variation, this is going far. Yet when the statute merely directs the keeping of a record, rights of third parties should not be lost through the negligence of a city clerk. *Cf. Chicago R. Co.* v. *Putnam*, 36 Kan. 121, 12 Pac. 593. *Contra*, *Lebanon Water Co.* v. *Lebanon*, 163 Mo. 254, 63 S. W. 811. Where the record is obviously incomplete or ambiguous, justice would seem to require the use of parol evidence to protect the interests of third parties.

PUBLIC OFFICERS — NATURE OF PUBLIC OFFICE — ACTION FOR DISMISSAL WITHOUT CAUSE. — The plaintiff contracted to serve five years as superin-